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PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 09 MAR 2004

WIPO PCT

Applicant's or agent's file reference 0551P10WO01	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/CA 03/00307	International filing date (day/month/year) 06.03.2003	Priority date (day/month/year) 06.03.2002
International Patent Classification (IPC) or both national classification and IPC H04L29/06		
Applicant PEREGRINE SYSTEMS, INC.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 7 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

I ☒ Basis of the opinion

II ☐ Priority

III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability


IV ☐ Lack of unity of invention

V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

VI ☐ Certain documents cited

VII ☐ Certain defects in the international application

VIII ☐ Certain observations on the international application

Date of submission of the demand 03.10.2003	Date of completion of this report 05.03.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Bengi-Akyuerek, K Telephone No. +49 89 2399-7105



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International application No. **PCT/CA 03/00307**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-13 as originally filed

Claims, Numbers

1-18 as originally filed

Drawings, Sheets

1/4-4/4 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-18
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-18
Industrial applicability (IA)	Yes: Claims	1-18
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1 The following document is cited by the Examiner:

D1: WO 9827502 A1 (INTEL CORPORATION) 25 June 1998 (1998-06-25)

2 The present invention relates to a system (claim 1), a method (claim 5), a computer program (claim 13), and an apparatus (claim 18) for identifying and notifying unauthorised access to data network services.

3 The following unclarities (Article 6 PCT) affect the assessment of novelty and inventive step of the underlying subject-matter:

3.1 The independent **claims 1, 5, 13, and 18**, related to the same embodiment, are not consistent since they do not comprise the same essential features (e.g., "initiation of a notification process") according to said embodiment, thereby rendering the scope of protection sought unclear.

3.2 The wording of **claim 18**, namely "In a computer...said computer comprising...", leaves doubt as to whether protection is sought for a "computer" per se or for the individual components of the computer. Hence, the scope of this claim is unclear (see PCT-Gazette, IV, III-4.8a).

4 The present application does not meet the criteria mentioned in Article 33(1) PCT, because the subject-matter of independent **claims 1, 5, 13, and 18** does not involve an inventive step in the sense of Article 33(3) PCT.

4.1 Document **D1**, which is considered to represent the closest prior art, discloses in accordance with features of **claim 5** (the references in parentheses applying to this document):

a method for identifying unauthorised access to a data network service, provided at a service node ("host system" in Fig. 1, ref. 120) in a data network (see Fig. 1), by a user node ("client system" in Fig. 1, ref. 110) in said data

network, of steps comprising:

- (a) retrieving a user access list ("log data"; see Figs. 3, 4, refs. 325, 430), for a given period of time in said data network (page 12, lines 4-10 and 17-20; page 14, lines 3-15; see Fig. 6, ref. 605 and Fig. 7, ref. 715);
- (b) comparing said user access list to an authorised user access list (page 15, lines 15-18);
- (c) determining an unauthorised access based on said comparison (page 15, lines 18-20);
- (d) if unauthorised access determined, initiating a notification process (page 15, lines 18-25).

4.2 The subject-matter of **claim 5** of the present application differs from that in document **D1** in that the user access list is retrieved from an agent at said service node.

4.3 The objective problem to be solved by **claim 5** may therefore be regarded as how to reduce complexity and costs in a user access supervision system.

4.4 Starting from the technical teaching of document **D1**, in which the retrieval of a user access list ("log data") from a "log server" (Figs. 1 and 5, ref. 150) not being part of a service node ("host system") is disclosed (e.g., Fig. 7, ref. 715), the skilled person would readily incorporate the functionality of the log server, namely maintenance and provision of log data such as user access and authorised user access lists, into a single unit, i.e. the service node ("host system") in order to combine the features of a typical service node and a log node, thereby eliminating the shortcoming of the approach described in **D1** based on common knowledge.

Moreover, this integration of functions would not produce any non-obvious interrelationships and technical effects, rather both units are supposed to function in their normal way. As a result, the skilled person would arrive at the subject-matter of claim 5 in an obvious manner in order to solve the objective problem stated above.

4.5 As a consequence, **claim 5** does not comply with the provisions set out in Article 33(3) PCT due to lack of inventive step of its subject-matter.

- 4.6 Referring to the objection raised above, **claims 1, 13, and 18**, insofar as they can be understood properly (see item 3 above), do also not comply with the requirements of Article 33(3) PCT due to lack of inventive step since their subject-matter corresponds to that of claim 5, whereby all the method steps of claim 5 are represented by corresponding structural features (**claims 1 and 18**) or by a computer program (**claim 13**).
- 4.7 According to the Applicant, **D1** does not disclose the retrieval of a user access list but rather the interception of the access request prior to the access performed. However, **D1** clearly and unambiguously discloses the retrieval of a user access list ("log data") since it is stated therein that "the log server first receives a request for the log data from a supervisor" and further that "the log data retrieval process provides a summary of the log data to the supervisor" (page 14, lines 4-5 and 14-15; see Fig. 7, refs. 705, 715).
- 4.8 Furthermore, it is agreed that the authorised access list is stored locally on the client machine according to **D1**. However, **D1** also explicitly discloses that the "permanent access database" (see Fig. 5, ref. 530) residing in the "access database control process" (see Fig. 5, ref. 527) of the "log server" stores access lists (page 12, last paragraph) as well.
- 5 Additionally, dependent **claims 2-4, 6-12, and 14-17** do not appear to contain any additional technical features which, either alone or in combination with the features of any claim to which they refer, meet the requirements of the PCT with respect to inventive step (Article 33(3) PCT) since their subject-matters are either known from the prior art (document **D1**; page 13, lines 4-6; page 15, lines 5-11) regarding claims 6, 10, 11, 14, 16 or merely represent minor design options to the person skilled in the art regarding claims 2-4, 7-9, 12, 15, 17.
- 6 In the light of the above-mentioned reasons, the present application does not comply with the criteria mentioned in Article 33(1) PCT due to lack of inventive step (Article 33(3) PCT) of its subject-matter.
- 7 Finally, the following additional remarks are given:
- 7.1 The independent claims are not properly drafted in the two-part form recommended by Rule 6.3(b) PCT and do not include reference signs in

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parentheses to increase their intelligibility according to Rule 6.2(b) PCT.

- 7.2 The prior art documents are not properly acknowledged in the description part according to Rule 5.1(a)(ii) PCT.